

- West Hawaii Regional FMA rules: Consulted with Legislative Reference Bureau for review as to formatting (7/25/13); revised Ramseyer draft and created standard draft; obtained final AG approval as to form (9/10/13); submitted to governor for final approval for rulemaking (9/16/13); Governor signed rules into law on 12/14/13; rules became effective on 12/26/13
- Drafted proposed rules for Kīpahulu FMA; met with TNC liaison to discuss Kīpahulu community concerns; created comparison chart to compare proposed Kīpahulu (bag, size, season, and gear) regulations with proposed Maui and Lana‘i Island regulations
- Met with Maunalua Bay Fisher Hui to hear their proposal for new/amended fishing regulations and enhanced enforcement capacity in Maunalua Bay

2) Research and facilitate implementation of other administrative changes that may increase DOCARE’s capacity to better monitor and enforce compliance with DAR’s resource regulations related to marine resources and coral reef enforcement, such as decriminalization of resource violations, protocols for interdivisional collaboration, and enhanced utilization of the administrative enforcement process. (DOCARE/Fisheries LAS)

- Researched DLNR’s authority to issue recreational marine fishing licenses
- Researched and reviewed case law, statutes, and rules related to asset forfeiture as a tool to increase compliance with marine resource regulations
- Met with DOCARE legal fellow, Administrative Proceedings Coordinator, DLNR Deputy Director, DAR biologists, and others to develop strategies to improve enforcement of aquatic resource laws
- Took the lead on drafting an administrative sanctions schedule for aquatic resource violations to enable DOCARE officers to utilize the Civil Resource Violations System (CRVS) to enforce state fisheries-related regulations; consulted with DAR biologists, DOCARE personnel, the Attorney General’s office, and the DLNR Administrative Proceedings Coordinator in the development of the schedule
- Provided legal research and interpretation to inform DLNR’s position on proposed legislation that purported to increase DOCARE’s authority to conduct administrative inspections of fishers’ catches

3) Provide legal support for implementation of the *DLNR Day Use Mooring Buoy 10 Year Plan (Recreational Impacts to Reefs LAS)*

- Engaged in discussions with the DMB coordinator regarding the necessity of an amended EA for the State’s Day-Use Mooring Buoy 10-Year Plan
- Worked with DMB coordinator to explore and develop regulatory and enforcement alternatives for the DMB draft EA
- Researched potential sources of funding for DMB program
- Reviewed Day-Use Mooring Buoy (DMB) survey prior to distribution

4) Provide legal and other resource support for community-based subsistence fishing areas (“CBSFAs”) and other recognized community-driven management initiatives,

such as the development of the *Community Based Subsistence Fishing Area Manual* and facilitating rulemaking for CBSFAs and the West Hawai‘i Regional Fisheries management Area

- Reviewed and revised draft Hā‘ena CBSFA rules in consultation with AG’s office, DLNR Chairperson, and community liaisons; researched legislative history of Hā‘ena CBSFA statute (HRS § 188-22.9); researched DLNR’s authority to establish a “no entry” zone within the Hā‘ena CBSFA; drafted amended DOBOR rules for the Hā‘ena ORMA to ensure consistency with Hā‘ena CBSFA rules; obtained input from community representatives to finalize CBSFA boundaries and subzones
- Researched legislative history of CBSFA statutes to inform DLNR policy in designating CBSFAs and implementing them through administrative rules
- Drafted rules for a general CBSFA framework, pursuant to HRS §188-22.6, to ensure consistency and compatibility among the various CBSFAs
- Met with a community representative to discuss a proposal to designate Polanui, Maui as an FMA or CBSFA
- Worked with the Mo‘omomi community to develop draft rules for a proposed Mo‘omomi CBSFA; held a public informational meeting on Molokai to present the proposal to the broader Molokai community
- Collaborated with TNC liaison to draft a rule package for a Kīpahulu CBSFA
- Prepared and presented a comparative analysis of 3 proposed Maui Nui CBSFA sites (Polanui, Kīpahulu, and Mo‘omomi) to promote collaboration among communities
- Provided procedural guidance and legal support to the CBSFA planner in developing a statewide CBSFA policy
- Met with UH law school professor, law students, State Parks agent, CBSFA planner and residents of Kahana Valley to provide input for an environmental law clinic curriculum that will assist the Kahana Community in developing and implementing a community-based marine resource management strategy
- Gave a presentation to a gathering of community leaders from around the state to educate them about the Chapter 91 rulemaking process and how it applies to the designation of CBSFAs

5) Assist with the development of Makai Watch partnerships and programs, and support Makai Watch outreach activities as necessary and appropriate

- Researched legal questions for Makai Watch program, including: exposure to civil liability for Makai Watch volunteers; State exposure to liability for a volunteer’s actions
- Met with new CBSFA Planner and Makai Watch Coordinator to explore ways to integrate the Makai Watch program with community monitoring and incident reporting in proposed CBSFAs
- Advised the State Makai Watch Coordinator regarding procedures for obtaining formal recognition of the Makai Watch Program through adoption by the BLNR

- Reviewed various draft Makai Watch documents, including the volunteer application, liability waiver, program evaluation, standards and safety protocols, and memorandum of agreement
 - Continued to participate on Makai Watch Advisory Group to provide legal and procedural support for the establishment and implementation of the MW program
- 6) Develop inter-organizational relationships to facilitate communication between necessary entities in the enforcement/prosecution process, including the county prosecutors' offices and community NGOs (DOCARE/Fisheries LAS).**
- Met with Land Division deputy AGs to discuss various DAR-related legal issues, including DLNR's legal position in a lawsuit involving the collection of aquarium fish in West Hawaii, DLNR's authority to conduct administrative inspections without probable cause, the use of asset forfeiture as an administrative enforcement tool, federal preemption of state shark finning laws, and recognition of traditional and customary native Hawaiian fishing rights
 - Collaborated with the Makai Watch Coordinator, DOCARE legal fellow, DOCARE Chief, DAR Administrator, and DLNR Administrative Proceedings Coordinator to develop policies and procedures to enhance inter-agency communication and improve the reporting/response/enforcement/prosecution system
- 7) Promote and develop appropriate administrative enforcement procedures and policies to be utilized for marine resource violation cases**
- Researched federal in-lieu fee and mitigation bank programs to inform DLNR's development of a procedural framework for utilizing settlement funds from coral damage cases
 - See above (developed a comprehensive administrative sanctions schedule for aquatic resource violations to enable DOCARE officers to utilize the Civil Resource Violations System to enforce state fisheries-related regulations)
 - Met with DOCARE Branch Chiefs to brief them on the CRVS Administrative Sanctions Schedule and how it will be used to administratively enforce and prosecute aquatic resource violations
 - Consulted with deputy AG to develop a legally enforceable asset forfeiture provision
 - Consulted with deputy AGs regarding DLNR's statutory authority to conduct searches and inspections to enforce aquatic resource laws
- 8) Assist with other aquatic resource- and coral reef- related management needs as they may arise within DAR, DOCARE, and Local Action Strategy initiatives.**
- Researched issue of State vs. Federal jurisdiction over submerged reefs beyond 3 miles from shore
 - Provided recommendations for Hawaii's first annual "Sanctuary Classic," a fishing/photography contest aimed at promoting safe and responsible fishing practices
 - Provided legal advice to a concerned fisherman regarding DLNR's ability to implement an emergency ban on lobster netting in Mo'omomi

- Researched use of the commercial fisheries special fund to support Molokini projects
 - Researched the legal effect of amending the Puako fringing reef boundary upon other FMAs such as the Waikiki-Diamond head FMA
 - Drafted proposed legislation to recognize the State's role in co-managing the Papahānaumokuākea Marine National Monument and the Hawaiian Islands Humpback Whale National Marine Sanctuary
 - Oversaw a summer intern researching federal preemption of state law related to the proposed adoption of federal regulations implementing the federal Shark Conservation Act
 - Met with BLNR chair, DAR planner, and HIIWNMS co-manager to explore a permitting system for access to Ni'ihau
 - Developed a conceptual management plan to regulate fishing and other ocean activities around Ni'ihau
 - Performed legal review of Rapid Response Contingency Plan for the NOAA Coral Fellow
 - Assisted with collecting and processing Molokini Shoal MLCD Use Permit applications
 - Reviewed and revised draft Ballast Water Management rule amendments
 - Researched DLNR's authority to install permanent private moorings within the Manele-Hulopoe MLCD
 - Researched DLNR's authority to open/close Bottomfish Restricted Fishing Areas (BRFAs) based on the state of the resource without going through the public rulemaking process
 - Reviewed proposed regulations for the Hawaiian Island Humpback Whale National Marine Sanctuary
 - Identified and tracked proposed state legislation related to aquatic resources and helped draft testimony and comments on behalf of DLNR
- **Deliverables and Outcomes** (*How did this project address critical management needs?*)
 - 1) The marine law fellow provided critical administrative rulemaking capacity within DAR. A number of marine resource regulations were advanced through the administrative rulemaking process, and one (the West Hawai'i Regional Fishery Management Area rules) became effective as law during the project period. The marine law fellow will continue to advance these rulemaking projects under the NA13NOS4820014 grant award.
 - 2) The marine law fellow researched and initiated administrative changes to enhance the Department's marine resource enforcement capacity through expanded use of DLNR's administrative enforcement authority.
 - 3) The marine law fellow provided quick legal review, research, and recommendations on a number of legal issues that arose. Where formal Attorney General (AG) consultation was necessary, the marine law fellow greatly enhanced communication and collaboration between DAR and the AG's office.

- **Obstacles or Delays:**
- **Future needs:**

Progress Report Prepared by: _____

Signature of Point of Contact: _____